

Applicant : Michael P. Ronan  
Serial No. : 10/058,594  
Page 13 of 24

### REMARKS

Applicants respectfully request reconsideration of the above-identified patent application. Claims 1-22 and 35 are pending. Claims 1, 3, 8, 10, and 14 are amended and claim 35 is added to more particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claims 23-34 are withdrawn as being directed to a non-elected invention. Applicants respectfully traverse the rejections under 35 U.S.C. 102 and 35 U.S.C 103 as conceivably applied to the amended claims.

#### I. Non-Art Issues

##### A. Drawings

The drawings were objected to for failure to show every feature of the invention specified in the claims. Applicants submit that the Examiner's request that "the various coated and uncoated regions be shown in different shade areas," would render the drawings confusing. The specification and claims make clear that at least a portion of the carton is coated. Coatings and their application are well known. If shading were added it would clutter the drawings, making them less clear. In the illustrated embodiment, the entire surface except the knock-out and uncoated stripe are coated as stated at page 7, line 2. Absences in the coating are clearly shown by the lines in the drawings defining the knock-outs 9 and uncoated stripe 42 (see page 8, lines 20-22, and page 9, lines 7-10).

Regarding the Examiner's additional requests, Applicants have enclosed three sheets of amended drawings. One sheet is a replacement sheet containing Figs. 7 and 8. Fig. 8 is amended to show line 10. Two additional sheets are enclosed, showing new Fig. 9 and new Fig.

Applicant : Michael P. Ronan  
Serial No. : 10/058,594  
Page 14 of 24

10. Fig. 9 shows an embodiment of the carton with the uncoated stripe 42 going through the knock-outs 9. Fig. 10 is a cross sectional view of the knock-outs 9 and punch scores 8 through line 10 on Fig. 8. Applicants submit that these informal drawings now show all of the required features. Formal drawings will be submitted upon the event of an allowance of the application.

B. Section 112 Rejections

As originally presented, claims 1-22 were rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as their invention. Specifically, it is asserted that the claims are confusing with respect to the recitations "coated," and "uncoated," and that it is unclear in the claims as to what comprises "uncoated knock-outs." Applicants respectfully submit that these terms are clearly defined in the specification and are nonetheless well known to those skilled in the art. Regarding the terms "coated" and "uncoated," the specification at page 6, line 22, through page 7, line 2, recites that a wide variety of paperboard coatings are well known in the art, and that the application of these coatings is also well known. Page 7, line 2 further states that in a preferred embodiment the coating is a UV varnish. Additionally, claims 1 and 14 are amended to specify that the coating is a "coating material," and dependent claims 10, 11, and 13 define more specific embodiments of the coating as a "protective coating" and a "UV varnish" so that the terms are even more clearly defined. Applicants submit that the term "uncoated knock-outs" is also well known to those skilled in the art. The specification at page 9, first paragraph, describes the knock-outs as uncoated portions of the coated panel 11. In an effort to achieve further clarity, claims 1 and 14 are amended to specify that the knock-outs are "defined by an

Applicant : Michael P. Ronan  
Serial No. : 10/058,594  
Page 15 of 24

absence in the coating.” In light of the specification, the above comments, and the amended claims, it is respectfully submitted that this rejection is overcome.

## II. Invention Summary

The present invention is directed to a folding carton construction that permits the carton to be easily unfolded while still maintaining sufficient strength to carry the desired contents. This construction is particularly useful in applications where instructions or other printed materials are included on the interior surface of the carton. By unfolding the carton, the user can gain easy access to the printed material located on the interior of the carton. The manufacturer's flap may include various permutations of punch scores, knock-outs, adhesive, and an uncoated stripe allowing a manufacturer to control the shear strength and the peel strength of the carton to meet a wide range of strength requirements while at the same time decrease the likelihood of tearing of the interior surface of the carton, which may otherwise make it difficult, if not impossible, to read the printed material located on the interior of the carton.

As defined in claim 1, the folding carton is comprised of a blank in a folded configuration defining an interior space for receiving contents and having an interior surface containing printed material; a contents access opening that includes a contents access flap that is movable to provide access to the contents of the carton; and a manufacturer's joint that secures the blank in the folded configuration and is peelable to permit unfolding of the blank to an open position that exposes the printed material. The manufacturer's joint comprises a first panel having a thickness and a surface and including a plurality of punch scores extending only partially through the thickness; a second panel disposed adjacent to the first panel and including

Applicant : Michael P. Ronan  
Serial No. : 10/058,594  
Page 16 of 24

a surface facing the surface of the first panel, the surface of the second panel being at least partially coated with a coating material and defining a plurality of knock-outs, the knock-outs being aligned with the punch scores and defined by an absence in the coating material; and an adhesive disposed between the first panel and the second panel adhesively joining the first panel and the second panel, the adhesive disposed in alignment with the punch scores and the knock-outs.

As defined in claim 14, the carton blank includes a first panel having a surface that is at least partially coated with a coating material and includes a plurality of knock outs defined by an absence in the coating material; a second panel having a thickness and a surface, and including a plurality of punch scores in the surface extending only partially through the thickness, the punch scores being configured to align with the knockouts when the blank is folded to form a carton; and an uncoated stripe on the first panel, the stripe defined by an absence of said coating material and extending through the knock outs on the first panel.

Claim 35 defines a folding carton including an adhesive panel having a thickness and a surface, and including a plurality of punch scores in the surface extending only partially through the thickness; a knock-out panel disposed adjacent to the adhesive panel, the knock-out panel including a surface facing the surface of the adhesive panel, the surface of the knock-out panel being at least partially coated with a coating material and defining a plurality of knock-outs, the knock-outs aligned with the punch scores and defined by an absence in the coating material; and an adhesive disposed between the adhesive panel and the knock-out panel adhesively joining the adhesive panel and the knock-out panel, the adhesive aligned with the

Applicant : Michael P. Ronan  
Serial No. : 10/058,594  
Page 17 of 24

punch scores and the knock-outs, and disposed in a continuous line extending along the punch scores and the knock-outs.

### III. Art Rejections

#### A. U.S. Patent 5,029,714 to Cassidy

As originally presented, claims 1, 3, 6, 7, 14, 16, and 18-20 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,029,714 to Cassidy.

Cassidy discloses a paperboard carton for packaging a foodstuff. The carton includes two overlapping flaps that are sealed together, one of the flaps is movable to provide access to the contents of the carton. The two flaps are coated with a PET coating, and further include a series of embossed regions that extend in toward one another. Additionally, an abseal is applied to the areas between the embossed regions. The two flaps are joined together only at the embossed regions, for example, by an adhesive applied to the embossed regions or by a PET coating that is sealed together by heat and pressure only at the embossed regions. The embossed regions are bounded by cut lines that facilitate delamination of the embossed regions.

It is well settled that anticipation can only be established by a single prior art reference that identically discloses each and every element of the claimed invention. Anticipation is not shown even if the difference between the claims and the prior art reference are insubstantial. Instead, the cited reference must show exactly what is claimed. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); Structural Rubber Prod. Co. v Park Rubber Co., 749 F.2d 707, 223 U.S.P.Q. 1264 (Fed. Cir. 1984).

Applicant : Michael P. Ronan  
Serial No. : 10/058,594  
Page 18 of 24

With respect to amended independent claims 1 and 14, and new claim 35, Cassidy does not disclose a first, or adhesive, panel having a thickness and a surface including a plurality of punch scores extending only partially through the thickness, and a second, or knock-out, panel at least partially coated with a coating material and defining a plurality of knock-outs, the knock-outs defined by an absence of coating material and being aligned with the punch scores. Cassidy attempts to control the adhesion by adding embossed regions and abseal regions to flaps that are already coated. The addition of these materials requires an additional step in the manufacturing process, and additional material costs. The knock-outs of the present invention achieve this strength control without the addition of any extra materials because of the increased adhesion in the uncoated areas, reducing the time and cost of the manufacturing process.

Additionally, with respect to amended independent claim 1, Cassidy does not disclose a blank having an interior surface containing printed material and a manufacturer's joint securing the blank in a folded configuration and being peelable to an open position that permits unfolding of the blank and exposes the printed material. Cassidy only discloses a contents access opening. The contents access opening and the manufacturer's joint are two different features that serve completely different functions. The contents access opening is designed to be easily opened and closed simply for providing access to the contents inside the carton. It does not secure the blank in a folded position and it does not permit unfolding of the blank to provide access to printed material on the interior surface of the carton. Unlike the contents access opening, the manufacturer's joint must provide sufficient shear strength to keep the carton closed during shipping and storage, while still permitting the carton to be peeled open to flatten the

Applicant : Michael P. Ronan  
Serial No. : 10/058,594  
Page 19 of 24

carton and expose the printed material on the interior surface. The present invention provides a manufacturer's joint that meets these requirements and also minimizes tearing on the interior surface of the carton.

With respect to amended claim 14, Cassidy does not additionally disclose a carton blank including an uncoated stripe on the first panel, the stripe defined by an absence of said coating extending through the knock outs on the first panel. The uncoated stripe of the present invention increases adhesion in particular locations in a similar manner as the knock-outs, and the ease of changing the size of the stripe provides the present invention with even more control over the peel strength and the shear strength of the carton – again without adding any extra materials or processes.

Further, with respect to new claim 35, Cassidy does not disclose the adhesive aligned with the punch scores and the knock-outs and disposed in a continuous line extending through the punch scores and the knock-outs. Cassidy discloses embossed regions bounded by cut lines that form a series of discrete points of adhesion. The present invention provides the advantage of greater adhesion capabilities by having a joint sealed along its entire length, as well as the increased efficiency in manufacturing realized in the application of a continuous line of adhesive over the application of an adhesive that must be directed to a series of specific points.

Applicants further submit that it would not be obvious to modify Cassidy to obtain the present invention as defined in the amended claims because there is no motivation in the prior art for making such a modification. Cassidy is directed to a contents access flap that is easy for a user to peel open. There is no need for the contents access flap of Cassidy to meet the

Applicant : Michael P. Ronan  
Serial No. : 10/058,594  
Page 20 of 24

shear strength requirements for the manufacturer's joint of the present invention. Further, the Cassidy carton is not foldable to an open position, and it does not disclose any printed material on the interior surface that would remotely suggest the addition of this feature.

B. U.S. Patent 5,029,714 to Cassidy

Claim 5 was rejected under 35 U.S.C. 103 as being unpatentable over Cassidy. The rejection states that it would have been obvious to one of ordinary skill in the art to substitute the water based adhesive of the present invention in Cassidy. However, the addition of a water based adhesive to Cassidy does not supplement the inadequacies of Cassidy already discussed above in regards to amended independent claims 1 and 14 and new claim 35. For instance, even with this substitution Cassidy does not disclose a plurality of knock-outs that are defined by an absence of coating.

C. Cassidy in view of U.S. Patent 5,044,503 to Wein

As originally presented, claims 1, 3, 6, 7, 14, 16, and 18-20 were rejected as being unpatentable over Cassidy in view of U.S. Patent 5,044,503 to Wein. Although this rejection is listed under 35 U.S.C. 102, Applicants respectfully submit that anticipation requires a single prior art reference that identically discloses each and every element of the claimed invention, and therefore will address this rejection under Section 103.

Wein is cited for teaching that it is known in the art to coat abseal ink between adhesive areas. Wein discloses a box gluing arrangement for sealing two overlapping flaps on a box, wherein one of the flaps is coated, and the other flap is not coated. The Wein arrangement provides circular or oval die cuts on the coated panel to control the tearing of the box fibers as



Applicant : Michael P. Ronan  
Serial No. : 10/058,594  
Page 21 of 24

the panels are peeled apart. A special adhesive repellent ink is applied in the areas between the die cuts on the coated panel to reduce adhesion in those areas and make it easier to open the box. Wein is similar to Cassidy in that it teaches the application of additional materials to an already coated carton in order to control adhesion strength. Wein does not disclose knock-outs that are defined by an absence in the coating. Instead, Wein teaches the addition of a special ink to decrease adhesion in particular areas. The addition of the ink requires an extra step in production and increases material costs. Again, the knock-outs of the present invention are capable of controlling adhesion strength with no additional steps or materials.

Further, like Cassidy, Wein is directed only toward a contents opening flap, not a manufacturer's flap, and only for making it easier for a user to peel open the overlapping panels. Wein in no way provides suggestion or motivation for the increased adhesion capabilities required by the manufacturer's flap of the present invention. In fact, Wein only discloses an ink that decreases the strength of the carton.

D. Cassidy in view of U.S. Patent 3,096,918 to Van Dyke

Claims 5-10, 21, and 22 were rejected under 35 U.S.C. 103 as being unpatentable over Cassidy in view of U.S. Patent 3,096,918 to Van Dyke. Van Dyke discloses a dispensing carton with a concealed cutting blade of the type known for use with a roll of plastic wrap, aluminum foil, or the like. Van Dyke is cited for teaching the container with an adhesive panel and a right panel that Cassidy lacks. However, Van Dyke still only discloses a flap for accessing the contents of a carton, and in no way supplements the inadequacies of Cassidy as set forth

Applicant : Michael P. Ronan  
Serial No. : 10/058,594  
Page 22 of 24

above. Suffice it to say Van Dyke does not disclose a manufacturer's flap, a carton foldable to an open position, or knock-outs defined by an absence of coating.

E. Cassidy in view of U.S. Patent 6,026,956 to Jensen

As originally presented, claims 10-11 were rejected under 35 U.S.C. 103 as unpatentable over Cassidy in view of U.S. Patent 6,026,956 to Jensen. Jensen is cited for teaching that the addition of UV varnish to Cassidy would have been known to one of ordinary skill in the art. Applicants submit that UV varnish is well known in the art as a paperboard coating, however, the addition of a UV varnish in no way supplements the inadequacies of Cassidy described above with respect to amended independent claims 1 and 14, and new independent claim 35.

Applicants would like to point out that Jensen has not been previously cited in a form 1449 Disclosure Statement by Applicants, and is not listed in the form 892 Notice of References Cited provided by the Examiner. It is believed that Jensen was cited by the Examiner, and accordingly, Applicants respectfully request entry of a form 892 citing this reference.

F. Dependent Claims

The dependent claims further define Applicants' invention and are therefore even more clearly allowable. Claims 2 and 15 further recite the carton of claim 1 having an uncoated stripe running through the knock-outs on the second panel. Claims 3 and 16 further recite a coating material on the surface of the first panel. Claims 4 and 17 recites the carton with an uncoated stripe running through the punch scores on the coated first panel. Claims 6 and 19

Applicant : Michael P. Ronan  
Serial No. : 10/058,594  
Page 23 of 24

further recite that the first panel is an adhesive panel and the second panel is a right panel. Claims 7 and 20 further recite the specific structure of the panels of the preferred carton. Claim 8 recites the contents access opening including a contents access flap hingedly attached to the front panel and a second closure flap hingedly attached to the back panel, each of the flaps hingedly attached to a locking panel. Claim 9 recites the carton including dust flaps hingedly attached to the right panel and left panel. Claims 12 and 18 further recite that the punch scores penetrate approximately  $\frac{1}{2}$  the thickness of the second panel.

It is respectfully submitted that Cassidy does not anticipate the subject matter of the pending claims and that any attempt to reconstruct the subject matter of the pending claims can only be made in hindsight with the present invention as a blueprint. However, even such an improper combination does not teach or suggest the present invention for the reasons stated above. It is therefore respectfully submitted that the rejections under 35 U.S.C. 102 and 103 are unfounded or overcome, and therefore should be withdrawn.

Applicant : Michael P. Ronan  
Serial No. : 10/058,594  
Page 24 of 24


IV. Conclusion

In view of the above amendments and these remarks, Applicants respectfully submit that the present application is in condition for allowance. A notice to that effect is earnestly and respectfully submitted.

Respectfully submitted,

MICHAEL P. RONAN ET AL

By: Warner Norcross & Judd LLP



---

William P. Dani  
Registration No. 37 810  
900 Fifth Third Center  
111 Lyon Street, N.W.  
Grand Rapids, MI 49503-2487  
(616) 752-2197

WPD/CEK/pas  
18716.75110-001  
937492-4